

Message Text

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ACTION SNM-02

INFO OCT-01 EUR-12 IO-13 ISO-00 SS-15 DODE-00 HEW-06
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TO SECSTATE WASHDC 4282
INFO AMEMBASSY BERLIN UNN
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AMCONSUL BREMEN
AMCONSUL DUESSELDORF
AMCONSUL FRANKFURT
AMCONSUL HAMBURG
AMCONSUL MUNCIH
AMCONSUL STUTTGART
USMISSION GENEVA

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E.O.11652: N/A
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SUBJECT: CONGRESSIONAL HEARINGS ON DECRIMINALIZATION OF
MARIHUANA

REF: (A) BONN 05002, (B) BONN 04689, (C) STATE 057902

1. THE FOLLOWING INFORMATION, OBTAINED FROM LOCAL POLICE AND
JUSTICE AUTHORITIES, SUPPLEMENTS THAT CONTAINED IN REFTELS
A AND B. THE FEDERAL GERMAN LAW ON NARCOTICS OF JANUARY 10, 1972
WAS EXTENDED TO BERLIN IN FEBRUARY OF THE SAME YEAR WITH THE
APPROVAL OF THE ALLIES. ARTICLE 11, SECTION 3, OF THIS LAW
PROVIDES THAT IN AN ESPECIALLY SEVERE CASE, A VIOLATOR CAN BE
SENTENCED TO IMPRISONMENT FOR ONE TO TEN YEARS ON ADDITION
TO BEING FINED. THE MAXIMUM SENTENCE (I.E. TEN YEARS) CAN BE
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IMPOSED IF AN OFFENDER THROUGH HIS ACTIONS, IS JUDGED TO HAVE
DAMAGED THE HEALTH OR ENDAGERED THE LIFE OF OTHERS, HAS
REPEATEDLY SOLD NARCOTICS TO PERSONS UNDER THE AGE OF 18, OR
HAS IMPORTED OR POSSESSED NARCOTICS IN LARGE QUANTITIES. A
COURT CAN REFRAIN FROM SENTENCING AN OFFENDER TO A PRISON
TERM OR FROM IMPOSING A FINE, IF THE OFFENDER HAD BEEN
FOUND IN POSSESSION OF ONLY A SMALL QUANTITY OF NARCOTICS

WHICH HE HAD BOUGHT FOR HIS OWN USE.

2. ALL PERSONS ARRESTED BY THE POLICE IN BERLIN FOR TRAFFICKING IN OR POSSESSING MARIHUANA ARE TURNED OVER TO THE JUSTICE AUTHORITIES FOR POSSIBLE VIOLATION OF THE ABOVE MENTIONED NARCOTICS LAW. THE ATTORNEY GENERAL THEN DECIDES IF AN OFFENDER SHOULD GO TO TRIAL, PAY A SIMPLE FINE OR BE RELEASED. IN GENERAL HOWEVER, BERLIN AUTHORITIES ASSUME A RELATIVELY LENIENT ATTITUDE TOWARD PERSONS IN POSSESSION OF SMALL AMOUNTS OF MARIHUANA, HASHISH, AND OTHER SO-CALLED SOFT DRUGS. AN OFFENDER FOUND IN POSSESSION OF A SOFT DRUG IN SMALL QUANTITIES (LESS THAN 20 GRAMS) FOR THE FIRST TIME WOULD NOT BE CHARGED, BUT WOULD BE RELEASED WITH A WARNING IN ACCORDANCE WITH ARTILE 11, SECTION 5 OF THE DRUG LAW. CONVICTION FOR A MORE SERIOUS DRUG VIOLATION (POSSESSION OF A LARGER QUANTITY OF SOFT DRUGS, USE OF HARD DRUGS, AND TRAFFICKING), CAN RESULT IN A FIRST OFFENDER BEING IMPRISONED FROM 6 TO 12 MONTHS. IN THE CASE OF A REPEATED OFFENDER, A CONVICTION CAN LEAD TO SEVERAL YEARS' IMPRISONMENT WITHOUT PROBATION.

3. IN 1976, POLICE AND PROSECUTION AUTHORITIES IN BERLIN INVESTIGATED A TOTAL OF 2300 VIOLATIONS OF THE NARCOTICS LAW, OF WHICH 803 CASES WERE DROPPED FOR LACK OF EVIDENCE AND 663 CASES WERE DISCONTINUED DUE TO THE RELATIVE INSIGNIFICANCE OF THE OFFENSE COMMITTED. (MOST OF THE CASES IN THE LATTER CATEGORY INVOLVED POSSESSION OF SOFT DRUGS.) FROM THE OVERALL TOTAL OF 2300 DRUG INVESTIGATIONS, COURT CONVICTIONS NUMBERED 438 OR 19 PERCENT.

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4. AS IN THE FRG, THERE IS NO INCLINATION AT PRESENT IN BERLIN TO DECRIMINALIZE THE POSSESSION OF, OR TRAFFICKING IN SOFT DRUGS. THEIR ATTITUDE IS BASED ON COURT STATISTICS REFLECTING A STRIKING INCREASE OF CASES IN BERLIN INVOLVING BOTH USE AND TRAFFICKING IN SOFT DRUGS (INCLUDING MARIHUANA), WHICH LOCAL ENFORCEMENT AGENCIES CONSIDER TO BE "TRANSFER DRUGS" PAVING THE WAY TO EVENTUAL HEROIN OR OTHER HARD DRUG ADDICTION. GEORGE

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Disposition Event:
Disposition History: n/a
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